IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

WP(C).No. 23687 of 2006(T)

PETITIONER:

PUNJAB NATIONAL BANK,
REPESENTED BY ITS CHEF MANAGER,
ASSET RECOVERY MANAGEMENT BRANCH,
ERNAKULAM.

BY ADV. SRI.P.K.SURESH KUMAR

RESPONDENTS:

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1. THE THAHSILDAR (REVENUE RECOVERY),
AMBALAVAYAL, WAYANAD DISTRICT.

2. KERALA TODDY WORKERS WELFARE FUND BOARD,
REPRESENTED BY ITS INSPECTOR,
KALPETTA, WAYANAD DISTRICT.

3. P.SAROJINI, PATTANMARVALAPPIL HOUSE,
P.O.KURICHIPATTA, WAYANAD DISTRICT.

R1 BY G.P. SRI. BASANT BALAJI
R2 BY ADV. SRI.A.K.JOHN, SC, KTWWF BOARD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF FINAL ORDER DATED 12.4.2004 IN O.A.NO. 357 OF 2003 ISSUED BY THE DEBT RECOVERY TRIBUNAL, ERNAKULAM.

EXT.P2 TRUE COPY OF LETTER DATED 25.2.2006 ISSUED BY THE PETITIONER BANK TO THE FIRST RESPONDENT.

EXT.P3 TRUE COPY OF REPLY DATED 16.3.2006 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER BANK

EXT.P4 TRUE COPY OF LETTER DATED 21.8.2006 ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER BANK

EXT.P5 TRUE COPY OF AUCTION NOTICE NO. B14/TWWF/01-02 ISSUED BY THE FIRST RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 23687 OF 2007

Dated this the 14th day of June, 2007

JUDGMENT

Petitioner's case is that the property mortgaged to it is proposed to be sold in recovery proceedings for recovery of toddy workers welfare fund. The Welfare Fund Act does not create a charge on the property of the defaulter. It is not known whether the property is covered by solvency executed by petitioner at the time of taking licence in which case there may be charge. It is also not known when revenue recovery proceedings are initiated and when notice was served on the defaulter creating charge under Section 44 of the Act. W.P. is therefore disposed of with direction to the first respondent to verify the records, consider the mortgage deed being produced by the petitioner, hear the petitioner and decide the priority claim by the Bank before sale of the property. If the Bank is found to have prior mortgage then property will be released to the Bank and priority is found in favour second respondent, the first respondent will issue a detailed order declaring it after considering the objections of the petitioner-Bank and proceed for

sale. The first respondent is directed to pass orders within two months from now. Recovery proceedings will remain stayed for two months and recovery thereafter will be based on the orders of the first respondent.

(C.N.RAMACHANDRAN NAIR)
Judge